

**REMARKS**

The Applicants acknowledge and appreciate the Examiner's withdrawal of the previously entered final rejection.

Applicant Dr. Saul Levinson and Applicants' representatives Mark Wachter and Sarah Vaz greatly appreciate Examiner Choi taking the time to conduct a personal interview on October 25, 2005, which was documented in an *Interview Summary* completed by the Examiner and made of record.

Applicants have noted that in the Office Action, dated June 8, 2005, at the bottom of page 3, the last sentence ends with "or" while the next page begins a new paragraph. As this following paragraph only discusses the Borkan et al. patent, Applicants have assumed for purposes of this response that the "or" was a typographical error that was probably intended to be a period to end the sentence in question. During the aforementioned personal interview, the Examiner confirmed that Applicants' assumption is correct.

The Applicants respectfully request that the Examiner enter the proposed amendment to Claim 23. The Applicants have amended Claim 23 to further distinguish the Applicants' claims from the prior art. No new matter has been added by this amendment, and Claim 23 as amended is fully supported by the specification of both the instant application and the specification from which the instant application ultimately claims priority, Ser No. 09/320,559. Claims 24-30, have not been amended for purposes of this response.

The Examiner has indicated that this amendment will necessitate a new search. For purposes of a complete record, and in response to the Office Action dated June 8, 2005, Applicants enter the following remarks:

**Rejection under 35 U.S.C. § 102(b) or § 103(a):**

The rejection of Claims 23, 26, 28 under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Borkan et al., U.S. Patent No. 4,935,243 is respectfully traversed.

Borkan et al. discloses and claims an improved chewable softgel, purported to be useful for providing biologically active components. It does not disclose or teach a softgel of the type or exact formulation utilized by Application, and further does not disclose or teach a multiple dosage formulation as disclosed and claimed by the Applicants. It is therefore respectfully requested that the rejection of Claims 23, 26, 28 under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Borkan et al. be withdrawn in light of the present amendments.

**Rejection under 35 U.S.C. § 103(a):**

The rejection of Claims 23-30 under 35 U.S.C. 103(a) as being unpatentable over Borkan et al., U.S. Patent No. 4,935,243 or Kern et al., U.S. Patent No. 2,491,452, each in view of Chang et al., U.S. Patent No. 4,874,629 and WO 97/04668 is respectfully traversed.

The references cited by the Examiner disclose various supplements and dosage forms as are known in the art. However, it has not been shown that there is any teaching or motivation to combined, or even if such combination is possible. More importantly, it has not been shown that these references, alone or in combination, teach the Applicants' supplement and multiple dosages as presently claimed. It is therefore respectfully requested that the rejection of Claims 23-30 under 35 U.S.C. 103(a) as being unpatentable over Borkan et al., U.S. Patent No. 4,935,243 or Kern et al., U.S. Patent No. 2,491,452, each in view of Chang et al., U.S. Patent No. 4,874,629 and WO 97/04668 be withdrawn in light of the present amendments.

Application of: Mitchell I. Kirschner, et al.  
Serial No.: 10/714,516  
Amendment

It is therefore respectfully requested that the pending rejections be withdrawn and the application passed to allowance.

If any issue regarding the allowability of any of the pending claims in the present application could be readily resolved, or if other action could be taken to further advance this application such as an Examiner's amendment, or if the Examiner should have any questions regarding the present amendment, it is respectfully requested that the Examiner please telephone Applicants' undersigned attorney in this regard.

Respectfully submitted,

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